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TO RUEHC/SECSTATE WASHDC PRIORITY 8729
INFO RUEHBU/AMEMBASSY BUENOS AIRES PRIORITY 2957
RUEHPE/AMEMBASSY LIMA PRIORITY 4501
RUEHQT/AMEMBASSY QUITO PRIORITY 1545
RUEHLP/AMEMBASSY LA PAZ MAR 4538
RUEHAC/AMEMBASSY ASUNCION PRIORITY 2515
RUEHMN/AMEMBASSY MONTEVIDEO PRIORITY 3228
RUEHBR/AMEMBASSY BRASILIA PRIORITY 3117
RUEHCV/AMEMBASSY CARACAS PRIORITY 0900
RUEHBO/AMEMBASSY BOGOTA PRIORITY 1467
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C O N F I D E N T I A L SANTIAGO 000612

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E.O. 12958: DECL: 03/24/2016
TAGS: [PHUM](#) [PREL](#) [KCRM](#) [CI](#)
SUBJECT: 13 FORMER MILITARY OFFICERS INDICTED IN
PINOCHET-ERA "CARAVAN OF DEATH CASE"

REF: A. 05 SANTIAGO 1306

[1](#)B. 05 SANTIAGO 1052

Classified By: Charge d' Affaires Emi L. Yamauchi for reasons 1.4(b) and (d).

[1](#)1. (C) Summary: On March 21 presiding judge Victor Montiglio filed murder charges against 13 former Chilean Army officers in the Pinochet-era "Caravan of Death" case, whereby military officials traveled the length of Chile in 1973, killing a number of suspected dissidents. Eleven of the thirteen were jailed in a military facility, but are expected to be released on bail as early as today. One of the remaining two indicted is reportedly traveling "in the United States." Days earlier, Judge Montiglio revised charges against other defendants in the same case from aggravated kidnapping to first-degree murder. This opens the door to eventual application of the statute of limitations or amnesty law to these crimes. Montiglio did not name former dictator Augusto Pinochet in this round of indictments. End Summary.

CHARGES FILED AGAINST 13

[1](#)2. (C) Judge Victor Montiglio filed murder charges against 13 retired Chilean Army officers on March 21. In the so-called Caravan of Death, then General Sergio Stark led a helicopter expedition in September-October 1973 to "ensure uniform criteria for the administration of justice," which left 72 dead and 22 disappeared across Chile. Several of those charged were members of Stark's entourage, while others were stationed at military bases in Copiapo and Calama where 39 of the executions took place.

[1](#)3. (C) Eleven of the thirteen accused were served warrants and taken into custody at the Military Police Battalion Headquarters in Penalolen, a Santiago suburb. The other two were reportedly not in Santiago, one in northern Chile and the other vacationing in the United States. (Note: Post is attempting to determine the identity and location of the person reportedly in the U.S. End Note.) Montiglio has recommended those he charged be granted provisional liberty. An appeals court panel is expected to rule on that recommendation March 23.

THE END OF PERMANENT KIDNAPPING?

¶4. (C) Previously, on March 16, Judge Montiglio had changed the indictments against six others charged in the case from aggravated kidnapping to first degree murder. These included General Stark, who is imprisoned in Chile, and Armando Fernandez Larios, who currently resides in Florida. In throwing out the charges of aggravated kidnapping, Montiglio said death warrants had been issued for the victims, eyewitnesses testified to their executions, and in some cases those involved had confessed. "I believe it is nearly impossible to say they have been kidnapped," he said.

¶5. (C) The legal doctrine of aggravated or "permanent" kidnapping was first proposed by Judge Juan Guzman in 2001. Guzman was in charge of several Pinochet prosecutions until his 2005 retirement (refs A and B). The doctrine essentially states that until a physical body is produced, penalties for aggravated kidnapping can be applied. An unresolved kidnapping would be considered ongoing, and would not be covered under the military government's self-decreed 1978 amnesty law. Convictions for aggravated kidnapping have been upheld by the Supreme Court. Montiglio's decision opens the door to the application of amnesty or the statute of limitations when these cases reach the sentencing stage.

NO CHARGES AGAINST PINOCHET

¶6. (C) Despite the Santiago Appeals Court's January decision to strip Pinochet's immunity in two Caravan of Death-related deaths, Pinochet was not named in this latest round of indictments. The reason is unclear. One possible reason is that Montiglio lacks evidence against Pinochet, or has not had time to formulate charges. Another involves Montiglio's

track record: as an appellate judge, Montiglio regularly voted against motions to strip Pinochet's immunity in other cases. Montiglio declined to support the latest petition, forcing the victims' families to appeal directly to the court. However, with the court's ruling Montiglio is now obligated investigate and rule on Pinochet's possible involvement.

YAMAUCHI